



**ZONING ADMINISTRATOR PERMIT
STAFF REPORT
AUGUST 17, 2015**

Proposal: **TESLA KATO FACILITY – PLN2015-00305** - To consider a request to increase the maximum allowable floor area ratio (FAR) in the Restricted Industrial (I-R) District from 0.35 to 0.45 associated with the conversion of a 302,400-square-foot shell warehouse building to office, automotive showroom, service center, service training, warehouse and other associated uses located in the Bayside Industrial Community Plan Area, and to consider a categorical exemption from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities.

Recommendation: Approve, based on findings and subject to conditions.

Location: 47400 Kato Road in the Bayside Industrial Community Plan Area;
APN: 519-1742-001-00

Area: Lot: 15.79 acres (688,126 square feet)
Existing Building: 302,400 square feet
Proposed Building: 312,375 square feet

People: Telsa Motors, Inc. (Christy Ortins), Applicant
Westcore Kato II LLC (Donald Ankeny), Property Owner
David Wage, Staff Planner, 510-494-4447, dwage@fremont.gov

General Plan: Industrial - Tech

Zoning: Restricted Industrial; I-R

EXECUTIVE SUMMARY:

The applicant is requesting an increase in the maximum allowable FAR from 0.35 to 0.45. In March 2015, a ministerial Design Review Permit was approved and a building permit was issued to construct a 302,400 square foot shell warehouse building on a 688,126 square foot lot at 47400 Kato Road. The I-R District allows a maximum FAR of 0.35 for industrial buildings. General Warehouse buildings may be built at a maximum FAR of 0.45. As defined in FMC Section 18.25.3160, General Warehouse buildings must be devoted to the storage of goods and materials, where no more than ten percent of the floor area is used for office. The subject 302,400 square foot warehouse building was built at a FAR of 0.44. As part of their tenant improvements, the applicant is proposing the addition of a 9,775 square foot mezzanine that would increase the building floor area to 312,375 square feet, which represents a FAR of 0.45. In June 2015, Tesla Motors Inc. submitted an application for a FAR increase from 0.35 to 0.45 to allow office, automotive showroom, service center, service training, warehouse and other associated uses. Staff recommends the Zoning Administrator approve the FAR increase as shown in Exhibit "A," based on findings and subject to the conditions of approval in Exhibit "B."

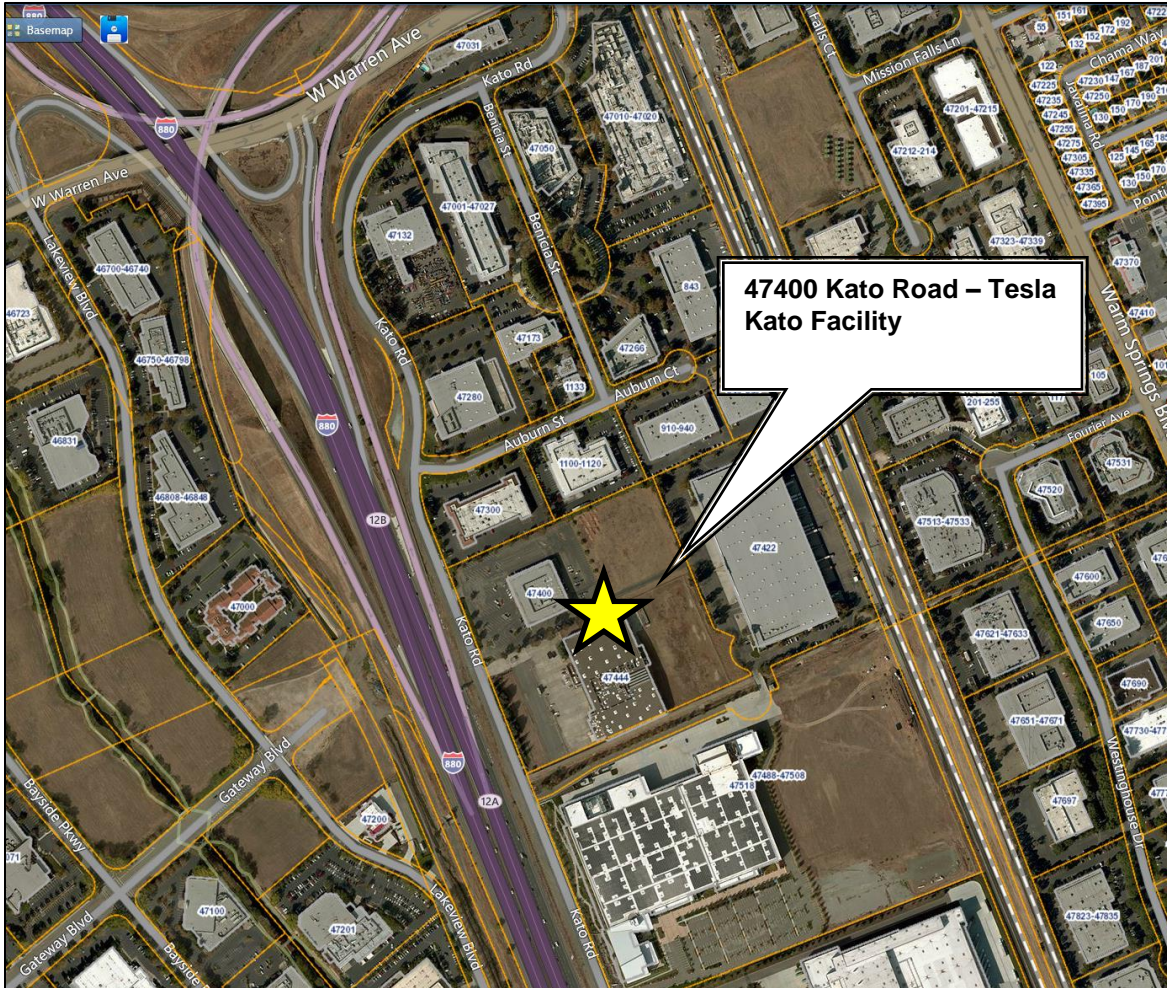


Figure 1: Aerial Photo (2009) of Project Site and Surrounding Area.

SURROUNDING LAND USES:

North:	Tech Industrial
South:	Tech Industrial
East:	Tech Industrial
West:	I-880



BACKGROUND AND PREVIOUS ACTIONS:

The 15.79 acre project site is located at 47400 Kato Road, in the Bayside Industrial Community Plan Area of Fremont, approximately 1,700 feet south of Warren Avenue east of Highway I-880. The site is surrounded by existing industrial buildings to the north, south and east. Kato Road is immediate west of the project site. The site was previously occupied with two buildings. The first building was constructed in 1973 as a 56,230 square foot corporate office building. The most recent tenant was Stats Chip Pac, a manufacturer and distributor of computer related products. The second (adjoining) 147,485 square foot building was constructed in 1977 as a spice plant. The building was most recently occupied by San Francisco Herb and Natural Food Company. In January 2015, the two buildings were demolished by the property owner. In February 2015, a ministerial design review permit was approved and a building permit was issued to construct a 302,400 square foot shell warehouse building, which represents a FAR of 0.44. The warehouse building is currently under construction. The building is a rectangular-shaped tilt-up structure, with truck dock doors on the north and south sides of the building for loading and unloading full sized semi-trucks. The vehicular access and parking will surround the building on all four sides. The site will be accessible from two driveways on Kato Road.

PROJECT DESCRIPTION:

Buildings designed and occupied with industrial uses in the I-R District may be constructed with a maximum FAR of 0.35. Buildings with a FAR greater than 0.35 and up to 0.45 are allowed as a General Warehouse use. FMC Section 18.25.3160 defines General Warehouse and limits the use of floor area to the storage of goods and materials, with no more than 10 percent of the floor area being used for office. The 302,400 square foot building at 47400 Kato Road was permitted as a shell warehouse building with a FAR of 0.44. As part of the project, the applicant is proposing to construct a 9,775 square foot mezzanine, which would increase the total building area to 312,375 square feet, which would represent a FAR to 0.45. Since more than ten percent of the floor area is proposed to be dedicated to uses other than warehouse, a floor area increase from 0.35 to 0.45 is required. Below is a summary of the proposed uses within the building:

Office - 93,500 square feet: The office area would be an open design that includes conference rooms and a lobby area. The applicant has indicated the office area would be used for service support, sales, general office and administrative uses. The office area is anticipated to accommodate approximately 700 people.

Mezzanine – 9,975 square feet: The building is currently single-story; however the applicant is proposing to construct a mezzanine within the existing building that would result in an additional 9,775 square feet of floor area. The mezzanine area would be used as conference space and lounge area for employees. The total office area would be 103,475 square feet with the addition of the Mezzanine.

Automotive Showroom – 4,500 square feet: The showroom would provide a display area for three cars and include a lounge area for sales customers and patrons utilizing the onsite charging stations. A total of 20 super charger stations would be added to the parking lot as part of the tenant improvements. The sale of electric vehicles is a permitted use in the I-R District.

Service Center - 30,400 square feet: The automotive service center would include 25 car lifts for the service and repair of Tesla electric vehicles. The service of electric vehicles is a permitted use in the I-R District.

Service Training – 43,700 square feet: The service training area would include a service engineering space with seven lifts and six service training bays with two lifts each and seating area for 12 employees. This service training area would be used to train staff before they join service center. The service training area is considered ancillary to the service center, which is a permitted use in the I-R District.

Warehouse – 120,000 square feet: The warehouse will be used for the storage of automotive parts.

Employee Amenities – 20,600 square feet: A café and gym would be provided for the use of employees. The café and gym would not be open to the public. These facilities are considered an Accessory use that is appropriate, subordinate and customarily incidental to the principal use.

PROJECT ANALYSIS:

General Plan Conformance:

The General Plan land use designation for the project site is Tech Industrial. The Tech Industrial designation is intended to accommodate light industrial and research and development-based land uses, many of which are tied to the Silicon Valley economy and related technological, administrative, sales and engineering facilities. The project is located within the Bayside Industrial Community Plan Area, which includes a concentration of industrial development within the City. The Bayside Industrial Area supports the possible intensification of underutilized or vacant sites that could support more economically productive uses. The proposed project would be consistent with the following goals, policies and implementation measures contained in the Land Use and Economic Development Chapters of the General Plan:

Land Use Goal 2-5: Employment Districts – *Strengthen Fremont as a major regional job center, a health care and professional office hub, a preferred location for technology, research and development, and home to a diverse mix of businesses and industries.*

Land Use Implementation Measure 2-5.2.A: Tech Industrial Areas – *Accommodate a range of development settings in the "Tech Industrial" designation, including planned industrial parks with abundant landscaping and high design aesthetic standards similar to Ardenwood and Bayside Technology Parks, and more conventional industrial businesses with outdoor storage and use of hazardous materials.*

Land Use Policy 2-5.9: Optimizing the Use of Industrial Land – *Encourage more efficient and productive use of underutilized industrial land. Industrial land should be recognized as a limited resource that must be carefully managed to accommodate projected job growth and market needs.*

Economic Development Policy 6-1.3: Business Recruitment/Retention – *Through business-friendly policies, recruit new businesses and retain existing businesses that provide revenues to the City and jobs to the community.*

Economic Development Implementation Measure 6-1.3.E: Assist Expansion Efforts – *Assist firms in their efforts to expand locally and provide individualized site selection assistance to ensure that Fremont firms have adequate space to grow their operations in suitably zoned areas that will accommodate future expansion.*

Economic Development Goal 6-3: Diverse Industrial and Technology Uses – *Provide for a variety of industrial uses to minimize the impact of industry-specific downturns on the local economy, to provide a range of job opportunities for local residents, and to provide opportunities for synergy between various industries.*

Economic Development Goal 6-5: Sustainability – Continue to promote Fremont as an excellent business location for clean and green technology firms and their suppliers.

Economic Development Implementation Measure 6.5.1.B: Green Jobs – Partner with local and regional agencies and educational institutions to offer courses/training that prepare students/workers for green jobs.

Bayside Industrial Community Plan Policy 11.2.2: Industrial Intensification and Reuse – Encourage the reuse of older industrial site in the Bayside area with higher value, higher employment generating land uses, provided that the such uses do not adversely impact adjacent uses and are consistent with other policies in the General Plan.

Analysis: The proposed FAR increase to enable conversion of a warehouse building to an industrial building that includes office, automotive showroom, service center, service training, warehouse and other associated uses would be consistent with the goals, policies and implementation measures of the General Plan in that it would allow a major employer and leader in the clean and green manufacturing industry to expand its operations within the City and build a new, state-of-the-art facility. The new Tesla facility would support its existing operations and create new employment and job training opportunities. It would also enable Tesla to maximize the use of a recently redeveloped site with a higher value land use that is consistent with other surrounding uses in the Bayside Industrial Community Plan Area.

Zoning Regulations:

As described above, the project was built as shell warehouse building with a FAR of 0.44 in accordance with the development standards of the I-R District for a General Warehouse. As part of the project, the applicant is proposing a 9,975 square foot mezzanine addition resulting in a FAR of 0.45. The applicant is requesting a FAR increase from 0.35 to 0.45 to allow the building to be used as an industrial building that includes office, automotive showroom, service center, service training, warehouse and other associated uses. Pursuant to FMC Section 18.190.170 and 18.250, the Zoning Administrator has approval authority to consider FAR increases.

Table "A" shows how the project would comply with the standards for a new industrial development in the I-R District with the proposed FAR deviation highlighted in gray:

Table "A" – I-R District Standards

Lot Feature	I-R Standard	Proposed	Proposed Deviation
Minimum Front Setback	25'0"	±150'0"	No Deviation
Minimum Rear Setback	0'0"	±70'0"	No Deviation
Minimum Side Setbacks	25'0"	±90'0"	No Deviation
Maximum Building Height	75'0"	±45'0"	No Deviation
Required On-site Parking	517 spaces	619 spaces ¹	No Deviation
Floor Area Ratio Limit	0.35	0.45	29% (0.1/0.35)

The applicant is proposing a 312,375 square foot building on a 688,126 square foot lot, thereby resulting in a proposed FAR of 0.45. The proposal would exceed the maximum FAR for an industrial building of 0.35 by 29 percent ($0.1/0.35=0.29$). All other aspects of the project would comply with the I-R District standards.

¹In accordance with FMC standards, the 619 parking space total includes credit for eight parking spaces for providing 26 bicycle parking spaces and 10 motorcycle parking spaces.

Circulation - Traffic engineering staff reviewed the proposed project and the potential impact on surrounding intersections and street segments. The proposed project is estimated to result in a net increase of 68 AM peak hour trips, 94 PM peak hour trips and 580 weekday trips. The estimated number of net new trips would not significant impact the surrounding roadway network, which currently operates at acceptable levels (LOS D or better). Additional information on vehicular circulation is included in Finding No. 2 in the Staff Report.

Onsite pedestrian circulation was reviewed through the Design Review Permit and building permit process. A path of travel demarcated by decorative pavers will be provided from the street sidewalk to the main building entry. A walkway adjacent to the front of the building will allow pedestrians to safely travel onsite.

Parking - The building was originally designed with 52 truck dock loading doors and 473 parking spaces. A revision to the building permit was approved to reduce the number of truck doors on the north and south sides of the building to 24 truck doors and increase the number of parking spaces to 619. As shown in Table "B" below, the principal uses in the building require a total of 517 spaces and the site would provide 619 spaces, which represents an excess of 102 spaces. The café and gym area would be for employees only and considered an accessory to the principal uses within the building. Since these areas are an accessory use that is not open to the public, they were not included in the parking requirements for the building.

Table "B" – Parking Analysis

Use	Standard	Area (square feet) or other	Number of Spaces
Office	3.3 per ksf	93,500	309
Service Center	5 plus 1.25 per ksf in excess of 3ksf	30,400	39
Show Room	5 plus 1.25 per ksf in excess of 3ksf	4,500	7
Warehouse	1.25 per ksf	120,000	150
Service Training Area	1 per employee ² , 1 per student	12 Students	12
		Total Required Spaces	517
		Spaces Provided	619

FINDINGS FOR APPROVAL

Pursuant to FMC Section 18.20.070 and based on the analysis above staff recommends that the following findings are made to allow a FAR increase:

Floor Area Ratio Increase

- 1. The proposed use is consistent with the general plan and applicable community plan.**

Analysis: The proposed industrial use is consistent with the Tech Industrial designation and Bayside Industrial Community Plan Area, which both support and encourage a variety of

² The applicant has indicated that the employees training the students will occupy space in the office area and therefore only students were counted for the service training area parking requirements to avoid double counting employees in the office and training areas.

industrial and research and development activity including: distribution centers, warehousing, automotive service and ancillary uses such as offices and retail. In addition, the project would also be consistent with General Plan land use policies such as: "Employment Districts," "Green Jobs," "Business Recruitment/Retention," and "Diverse Industrial and Technology Uses," as enumerated in the staff report.

2. The increase in floor area ratio will not cause the project to exceed the capacity of streets and will not adversely affect the privacy of properties in the vicinity of the project.

Analysis: The project site is located off of Kato Road, south of West Warren Avenue. Using ITE trip generate rates, City Traffic Engineering staff calculated the net trips in the PM peak hour for the proposed Tesla Kato Facility. The number of trips was estimated for the Tesla Kato Facility and the trips generated by the two buildings that previously occupied the site were subtracted to calculate the number of net new trips. The proposed project to allow a FAR increase and a mezzanine with 9,975 additional square feet of office space is estimated to result in a net trip increase of 68 AM peak hour trips, 94 PM peak hour trips and 580 weekday trips, which is below the City's adopted threshold to require a traffic study. Although the City did not conduct a traffic study for the proposed project, an analysis was conducted in 2012 for intersections near the project site. The study showed the intersections of Warren Avenue/Kato Road and Warm Springs Boulevard/Warren Avenue operate at acceptable levels (LOS C) for the AM and PM peak hour. The additional trips generated as a result of the project would not significantly impact the operation of streets or intersections in the vicinity of the project site.

The proposed FAR increase would not adversely impact the adjacent properties because the site is surrounded by large industrial buildings of similar size and scale on proportionally-sized lots, and the subject property would still have ample setbacks surrounding the buildings in the form of landscaped areas around the perimeter of the buildings and surface parking lots between the buildings and the street. Furthermore, the project would meet all other development standards in the I-R District for industrial development with the exception of FAR. Privacy would not be significantly impacted.

3. A deed restriction approved by the city attorney shall be recorded on the property to ensure that the use of the property remains limited to that presented to the approval authority.

Analysis: A provision would be in place guaranteeing that the FAR Increase would not be utilized to create a more intensive use than is described in this staff report. The applicant would be required to record the City's standard Declaration and Acknowledgment of Land Use Restriction Regarding Floor Area Ratio, which would limit use of the new facility solely to those uses described in this staff report or any other use deemed less intensive by the Planning Manager or his/her designee (see Informational Item #2 for a copy of the Form Declaration/Acknowledgment).

4. The proposed project would provide extraordinary benefits to the city.

Analysis: The project would provide extraordinary benefits to the City by allowing a major employer in the green technology industry to expand locally. Tesla is a leading company in the electric automotive industry with strong ties to other large supporting businesses in the green technology, manufacturing and distribution sectors within the City. Allowing an expansion would be a significant benefit to the local economy. It would also be consistent with the City's economic development goals related to retaining existing businesses that

provide revenues to the City and jobs to the community and promoting Fremont as a designation for clean and green technology firms.

Environmental Review:

The applicant is requesting a FAR increase from 0.35 to 0.45 to allow an existing warehouse building to be occupied with uses that include: office, automotive showroom, service center, service training, warehouse and other associated uses. This project is exempt from the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301, Existing Facilities, as it would include addition of a mezzanine less than 10,000 square feet in area within the shell of an existing building. The project would include the construction of interior tenant improvements, such as partitions, vehicle service equipment, storage racks, vehicles lifts and furniture. 20 electric vehicle chargers would be installed in the outdoor parking area. Consistent with provision (e) of Section 15301, the project site is in an area where all public services are available and that is not environmentally sensitive. The uses proposed within the building are consistent with the Tech Industrial General Plan land use designation and the I-R District. No other changes to the building or site improvements are proposed that would result in a significant expansion of use.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 22 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on August 6, 2014. A Public Hearing Notice was published by *The Argus* on August 6, 2014.

ENCLOSURES:

Exhibits:

- Exhibit A [Site Plan and Floor Plan](#)
- Exhibit B [Findings and Conditions](#)

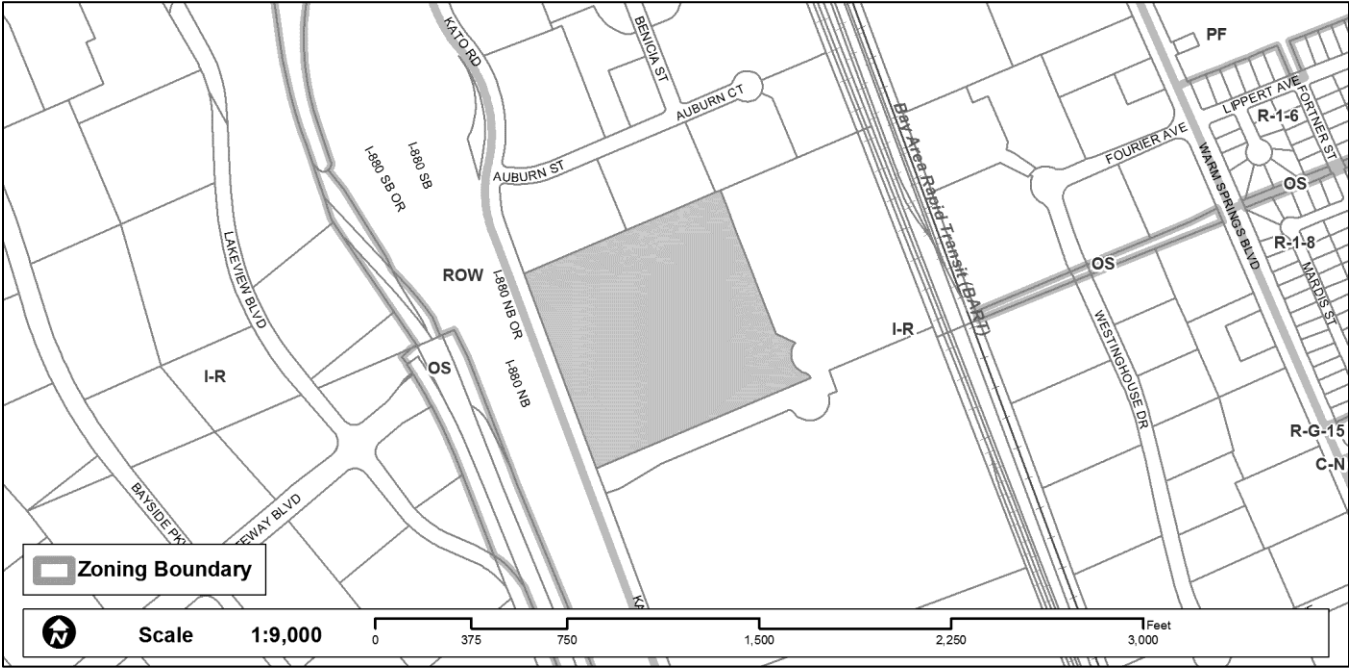
Informational Items:

- Informational 1 [Statement of Operations](#)
- Informational 2 [FAR Deed Restriction Form Agreement](#)

RECOMMENDATION:

1. Hold public hearing.
2. Find that the project is categorically exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301, Existing Facilities, because the project would not significantly expand the existing use.
3. Find PLN2015-00305, a FAR Increase from 0.35 to 0.45 to allow the conversion of a 302,400 square foot warehouse building to allow office, automotive showroom, service centers, service training, warehouse and other associated uses, and the construction of a new, 9,775 square foot mezzanine within the existing building for a total building floor area of 312,375 square feet, for the property at 47400 Kato Road, is in conformance with the relevant provisions contained in the City's existing General Plan as enumerated in the Staff Report.
4. Approve PLN2015-00305, as shown on Exhibit "A," subject to findings and conditions in Exhibit "B."

Existing Zoning Shaded Area represents the Project Site



Existing General Plan Shaded Area represents the Project Site

